

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

UNITED STATES OF AMERICA,

v.

CRIMINAL NO. 2:12cr184

ROBERT PATRICK HOFFMAN, II,

Petitioner.

OPINION AND ORDER

This matter comes before the Court on the Government's "Response to Defendant's Motion for Return of Seized Property" ("Response"), ECF No. 233, in which the Government sets forth its position on the method for returning certain of Petitioner's items as set forth in the Court's Order entered November 14, 2018, ECF No. 228.

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

On May 8, 2013, Petitioner was named in a one-count Superseding Indictment charging him with Attempted Espionage, in violation of 18 U.S.C. § 794(a). ECF No. 50. On August 21, 2013, after a five-day trial, a jury unanimously found Petitioner guilty, beyond a reasonable doubt, of Count One of the Superseding Indictment. ECF No. 118. On November 25, 2013, the Court entered a Consent Order of Forfeiture signed by Petitioner, listing numerous electronic items to be forfeited pursuant to 18 U.S.C. § 794(d) ("Consent Order"). ECF No. 128.

On February 10, 2014, the undersigned sentenced Petitioner to 360 months of imprisonment. ECF No. 142. Petitioner appealed his sentence and on May 5, 2015, the Fourth Circuit affirmed this Court's Judgment. United States v. Hoffman, 612 Fed. App'x 162 (4th Cir. 2015) (opinion docketed as amended at ECF No. 194). On June 30, 2016, the clerk docketed Petitioner's Motion to Vacate Under 18 U.S.C. § 2255 ("2255 Motion"). ECF No. 203. On

February 16, 2018, the court denied Petitioner's 2255 Motion. ECF No. 215. Petitioner's Notice of Appeal regarding this decision to the Fourth Circuit was filed on May 1, 2018. ECF No. 219. The Fourth Circuit dismissed Petitioner's Appeal on September 27, 2018. ECF No. 226.

On June 6, 2017, Petitioner filed a Motion for Return of Seized Property ("Motion"). ECF No. 208. The United States filed its Response on August 4, 2017 ("Response to Motion"). ECF No. 211. Petitioner filed his Reply to Government's Response in Opposition to the Return of Seized Property on August 21, 2017 ("Reply"). ECF No. 212. On November 14, 2018, the Court denied Petitioner's Motion in part and granted Petitioner's motion as to the items listed in section IV.A. of such Order. ECF No. 228 at 4, 8. However, before ordering the return of the items listed in section IV.A the Court's Order, Id. at 4, the Court ordered the Government to submit a memorandum outlining its position regarding the method for sending such items to a location in Buffalo, New York where Petitioner's mother could pick them up and execute a receipt for such items. Id. at 4-5, 8.

In the instant Response, the Government indicates that the FBI has already returned certain items listed in section IV.A of the Court's November 14, 2018 Order, for which Petitioner's mother has signed a receipt. ECF No. 233 at 1-2. Regarding the property in section IV.A which has not yet been returned, the Government notes that it "has conferred with the two agencies holding the property in question, the Federal Bureau of Investigation and the Navy." Id. at 1. The Government sets forth a proposed method for delivery as follows:

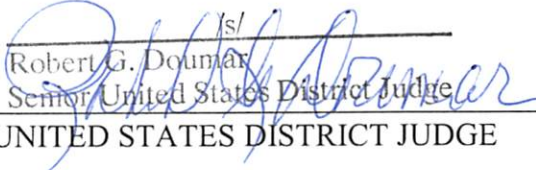
The FBI indicates that the Navy may transfer the property it is holding to the FBI and the FBI will send that property to its Buffalo, New York Office. The Navy is likewise agreeable to such an arrangement. Once the property is at the FBI office in Buffalo, it will be available for the defendant's mother to pickup. As the Court noted in its November 14 Order, the FBI will require the defendant's mother to sign a receipt for the items.

Id.

The Court hereby **FINDS** such delivery method acceptable and **ORDERS** the Government to return all items listed in section IV.A of the Court's November 14, 2018 Order, ECF No. 228 at 4, which have not yet been returned in the manner set forth herein within sixty (60) days from the issuance of this Order.

The Clerk is **DIRECTED** to forward a copy of this Order to Petitioner and all Counsel of Record.

IT IS SO ORDERED.



Robert G. Doumar
Senior United States District Judge
UNITED STATES DISTRICT JUDGE

Norfolk, VA
November, 2018

Nov. 3, 2018 RD